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Crowley P.J. 2

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-191082

DATE: May 10, 1978

MATTER OF:

Zinger Construction Company, Inc.

DIGEST:

Contention that bids for first of two line items are nonresponsive because they do not encompass providing steel structural support for wall panels required by second line item is without merit since only reasonable interpretation of invitation provisions is that structural support is requirement of second line item only and not of first line item.

Zinger Construction Company, Inc. (Zinger) of Valley Stream, New York, protests the award of any contract as the result of invitation for bids (IFB) No. N62472-76-B-0238, issued November 21, 1977, by the Northern Division, Naval Facilities Engineering Command (Navy), Philadelphia, Pennsylvania for the sealing and entrance protection of industrial buildings at the Philadelphia Naval Ship Yard. The IFB required bids on two items, and six bids were received on January 5, 1978 as follows:

	<u>Bid Item 1</u>	<u>Bid Item 2</u>	<u>Total</u>
Wickam Contracting	\$1,055,000	\$255,000	\$1,311,000
Rite-Way Electric	\$1,272,179	\$325,523	\$1,597,702
Seaboard Electric	\$1,200,000	\$513,084	\$1,713,084
Edward J. Troise & E.J.T. Constr., JV	\$1,287,000	\$513,000	\$1,800,000
Fluidics Inc.	\$1,237,000	\$599,000	\$1,836,000
Zinger Const. Co.	\$1,408,355	\$488,625	\$1,896,980
Government Est.	\$ 808,477	\$191,846	\$1,000,323
Control Amount:			\$1,200,000

Bids were lump sum amounts and did not contain any breakout of individual categories of work. However, General Provision 85, Schedule of Prices, and paragraph 7, Section 01011 of the Specification require the

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contractor to submit a detailed breakdown of the contract price, giving the quantities for each of the various types of work within 5 days of receipt of a Notice of Award.

Section 00101 of the IFB, Bidding Information, paragraph 2(b) provides as follows:

"Under the bidding items furnished on SF 21, Bid Form, bidders shall state prices for each basis for bid given hereinafter:

"(i) Basis of Bid for Item 1 shall be the entire work complete in accordance with the drawings and specifications, but not including work indicated or specified to be provided under any of the other bid items.

"(ii) Basis of Bid for Item 2 shall be the addition of the following, complete in accordance with the requirements specified hereinafter: Insulated wall panels in Bldgs. 16/18 and 592."

The Bid Form (Construction Contract), SF21, listed two items to be completed.

By letter dated January 6, 1978, received January 13, 1978, Zinger protested to this Office. The general thrust of the protest is that the low bids submitted by other firms are nonresponsive because they fail to include within Bid Item 1 the steel framing on which the insulated wall panels for Bldgs. 16/18 and 592 are to be hung. Zinger contends that an examination of the bids shows that the other bidders included the cost of steel framing in Bid Item 2, even though by the terms of the IFB Bid Item 2 only included the wall panels and did not include the structural framing. Zinger's point apparently is that

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the other bids are nonresponsive because acceptance of any of the bids on the basis of Bid Item 1 only would not result in a bidder commitment to furnish the framing. Zinger also suggests that since its bid included the framing in Bid Item 1 and since the value of that framing is \$200,000, it is the low responsive bidder for Bid Item 1.

In its report to this Office, the Navy states that:

"[t]his Command does not consider the items ambiguous. Each item independently must produce a usable facility, and an interpretation that the base bid Item 1 includes framing for wall panels provided by additive Item 2 is patently unreasonable. Structural steel for the panels is specified in section 07222 Insulated Wall Panels, and the Government Estimate included structural steel as part of Bid Item 2, about 25% of the estimate for that item. Section 05120 specifies Structural Steel generally and could not reasonably be interpreted to include steel 'for the support of exterior insulated panels' (05120.2) not installed."

The Navy further reports that award on Bid Item 1 only has been made to Rite-Way Electric, after Wickham was allowed to withdraw its bid because of an error in the bid and Seaboard Electric and Fluidics, Inc. were determined to be nonresponsive for failure to comply with the affirmative action plan requirement of the IFB.

Section 05120 of the specification concerns Structural Steel and section 07222 deals with Insulated Wall Panels. In addition, Paragraph 2, Section 01011, provides a general description of the work as follows:

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"The work includes the removal of portions of masonry walls, fixed glass, steel sash, exterior metal or asbestos cement panels, steam and condensate piping, fan coil unit, light fixtures and wiring; the provision of air curtains, air curtains with recovery air chimneys, automatic steam valves and piping assemblies with automatic temperature control, high pressure sodium light fixtures, photo-cell controls, insulated wall panels and interior partition with double door."

Paragraph 2, Section 05120 states that:

"[t]he work includes the provision of structural steel framing members for the support of exterior insulated wall panels and air curtain assemblies. Steel structural frames for this work include beams, angles, channels, rods and miscellaneous connection hardware. All new frames shall be supported from existing structures as detailed."

Relevant portions of Section 07222 which relate to Insulated Wall Panels are as follows:

"2. GENERAL REQUIREMENTS:

"2.1 All Construction: Work includes the provision of insulated wall panels applied to the surface of existing buildings. Buildings 16/18, 74, 543 and 592 shall receive panels as noted on drawings. * * *

"2.2 Optional Methods: All work is specified as one of the following two methods at the discretion of the contractor:

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"a. Factory Fabricated: * * * Panels shall be delivered to the site and erected to the details shown on drawings.

"b. Site Fabricated: * * * Panels shall be installed with metal stud framing secured to structural members as shown on drawings."

"7.2 Site Fabricated Panels: * * *
b. Steel Furring - Cold formed steel channels * * * as detailed. * * *

"c. Fasteners - All channel studs shall be connected to new structural steel or existing structural frame with 3/8" structural bolts or welded connections.
* * *

"7.3 Materials Related to Either Panel Option: * * * f. * * * Where bolts or screws are indicated on details (holding panels to new structural steel or existing structure) both bolts and screws shall be stainless steel with neoprene washers where indicated on drawing. Unless noted otherwise on details these fasteners shall be spaced 16" o.c. at horizontal connections and 24" o.c. at vertical connections."

"8. FABRICATION AND INSTALLATION: Prior to panel installation all operating steel sash shall be secured with sheet metal screws in pre-drilled holes (2 per sash at bottom of sash).

"8.1 Factory Fabricated Panels:
* * * b. Installation: Contractor shall determine that all new structural steel as shown on details for specific

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locations is securely fastened before installing panels. Prior to setting aluminum panels on structural steel, steel surface shall be coated with cold application bituminous cement. Panels shall be erected plumb and level and fastened as detailed and specified. * * *

"8.2 Site Fabricated Panels: * * * b. * * *
Erection: Contractor shall determine that all structural steel as shown on details for specific locations is securely fastened before erecting channel studs. Sill, head and intermediate horizontal studs shall be fastened to structural steel section with power driven steel studs, structural bolts or welding and to aluminum section with No. 14 stainless steel sheet metal screws. * * *

We find nothing in these specification provisions or in the accompanying Drawings which compels the conclusion that the structural steel framing was to be a separate item of work performed under Bid Item 1. Rather, since there was no need for the structural framing unless the wall panels were to be erected, we think the only reasonable interpretation is that advanced by the Navy--that a requirement for structural support for wall panels was included in the requirement for the wall panels themselves, and was not a separately established requirement to be met under Bid Item 1.

We point out, however, that even if the protester's interpretation of the IFB provisions is correct, the other bids would not be nonresponsive (for the reason advanced by Zinger) since the bids did not take exception to any specification requirement and thus acceptance of one of the bids would result in a binding contract to perform in accordance with the specification provisions. Abbott Power Corporation, B-186198, January 7, 1977, 77-1 CPD 13.

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The protest is denied.

R. F. Kilmer
Deputy Comptroller General
of the United States